

REMARKS

Claims 24-26, 28, 29, 32, 34, 37-41, 43, 44, 47, 53, 54 and 59-101 are in this case based on the filing of the amendment dated February 6, 2007. This supplemental amendment cancels claims 65-69 and 71-72 without prejudice. The remaining claims are amended as indicated below. On entrance of this amendment, claims 24-26, 28, 29, 32, 34, 37-41, 43, 44, 47, 53, 54, 59-64, 70, and 73-101 are in this case.

The amendments to the specification correct inadvertent errors introduced in the previous amendment filed on February 6, 2007. The undersigned thanks the Examiner for pointing these clerical errors out. Paragraphs on pages 12, 23, 28 and 58 of the specification are corrected in this amendment. These amendments do not add new matter.

Applicants resubmit the amendments to page 1. This amendment further provides replacement pages 1 and 1A which should substituted for pages 1 and 1A of the original specification. The replacement pages do not add new matter to the specification

Amendment to the claims

Claim 59 has been amended to improve clarity and better claim that which Applicants consider to be the invention. Parts 3 and 5 of the claim have been deleted. Claim 61 has been amended consistent with the amendment of claim 59. The cancellation of claims 65-69 and 71-72 is also consistent with the amendment of claim 59.

Claims 24, 25, 28, 32, 37, 39, 75, 80, 82, 85, 91, 93, 95 and 96 are amended to improve clarity by deleting "DNA sequence of an" or similar redundant language.

Claims 28, 32 and 85 have been amended to improve clarity by specifying that the DNA is “isolated DNA.”

Claims 29 and 84 are further clarified by indicating that the cytoplasmic male sterile is a Brassica line and that maintenance is obtained by “crossing.”

Claim 40 is better clarified by specifying that the cytoplasmic male sterile and the fertility restorer line are Brassica plants. The claim further specifies that the transformed plant comprises a DNA sequence encoding the protein having the amino acid sequence of SEQ ID NO:3.

Claim 47 is amended to improve clarity by emphasizing that each of the claimed plant materials comprise a DNA sequence encoding the protein having the amino acid sequence of SEQ ID NO:3.

Claims 78, 79 and 80 are amended to improve clarity by reciting that each of the claimed plant material comprises certain isolated DNA.

Claim 83 is amended to correct an obvious error by making the claim depend from claim 82.

Claim 90 has been amended to improve clarity by specifying that the seed comprises certain isolated DNA.

Claims 91 and 92 have been amended to improve clarity by adding the positional relationship of the promoter and the isolated DNA.

The amendments to the claims are fully supported in the specification and do not add new matter to the application. Specifically, the amendments to claims 29 and 84 are supported in the specification at page 17 (second full paragraph and bottom paragraph); page 48 (top paragraph, first two sentences) and the art-

recognized definition of a “maintainer” line as comprising a male sterile cytoplasm and a nuclear fertility restorer gene; wherein the population of progeny of the cross between such a maintainer plant and a cytoplasmic male sterile plant (lacking the nuclear restorer gene) contains 50% cytoplasmically male sterile plants that lack the restorer gene, i.e., are male sterile themselves.

It is believed that the amendment of the claims obviates all outstanding rejections and that all claims are in condition for allowance.

Conclusion

This Supplemental Amendment and Response is submitted to improve clarity and place the claims in condition for allowance in response to the Examiner’s suggested amendments. It is now believed that this application is in condition for allowance. Passage to issuance is respectfully requested. It is believed that no fees are due for this submission. If this is not correct, please charge Deposit Account No. 07-1969 for any fees required. It is believed that no extension of time is required for this submission.

Respectfully submitted,

//sallyasullivan//

Sally A. Sullivan
Reg. No. 32,064

Greenlee, Winner and Sullivan, P.C.
4875 Pearl East Circle, Suite 200 Boulder, CO 80301
Telephone: (303) 499-8080; Facsimile: (303) 499-8089
email: *winner@greenwin.com*
Attorney docket no. 54-05A
SAS:bds:March 22, 2007